

Application No.: 10/656,227

REMARKS

This Amendment is filed in response to the final Office Action dated December 28, 2007.

For the following reasons this application should be allowed and the case passed to issue. No new matter is introduced by this Amendment and this Amendment clearly places the application in condition for allowance. The new claims are supported by the specification, drawings, and claims as originally filed. New claim 15 is supported by Figs. 1 and 3, and the specification in paragraphs [0015], [0018], [0019], [0023], and [0029]. New claims 16 and 17 are supported by originally filed claims 7 and 13, respectively. Support for new claim 18 is found in Figs. 1 and 3, and paragraphs [0015], [0017]-[0019], and [0023]-[0025]. Originally filed claims 2-4, 8, 9, 12, and 13 provide support for new claims 19-25, respectively.

Claims 15-25 are pending in this application. Claims 1-14 have been rejected. Claims 1-14 have been canceled in this response. Claims 15-25 are newly added in this response.

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 2, and 5-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hatano et al. (JP 2001-143742). This rejection is traversed, and reconsideration and withdrawal thereof respectfully requested. The following is a comparison between the present invention, as claimed, and the cited prior art.

Initially, it is noted that claims 1-14 have been canceled. New claims 15-25 have been introduced. As explained below, the new claims are not anticipated or suggested by the cited prior art.

An aspect of the invention, per claim 15, is a fuel cell assembly mounted in a vehicle comprising a fuel cell stack comprising plural fuel cells stacked in a fixed direction and a pair of end plates which are stacked on both ends of the plural fuel cells. A stacking bolt penetrates the

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pair of end plates in the fixed direction and maintains the plural fuel cells in a stacked state. A case houses the fuel cell stack, and a bolt penetrates an end plate and the case in a direction perpendicular to the fixed direction to support the fuel cell stack to the case.

Another aspect of the invention, per claim 18, is a fuel cell assembly mounted in a vehicle comprising a fuel cell stack comprising plural fuel cells stacked in a fixed direction. A stacking bolt is disposed along the fixed direction to maintain the plural fuel cells in a stacked state. A fluid supply/discharge block is fitted to an end of the fuel cell stack to supply fluid from outside to each of the plural fuel cells and discharge fluid from each of the plural fuel cells to outside. A case houses the fuel cell stack and the fluid supply/discharge block, and a bolt penetrates the fluid supply/discharge block and the case in a direction perpendicular to the fixed direction to support the fuel cell stack to the case.

Hatano et al., however, do not anticipate the claimed fuel cell assemblies because Hatano et al. do not disclose a fuel cell stack comprising plural fuel cells stacked in a fixed direction, a case housing the fuel cell stack, and a bolt which penetrates an end plate and the case in a direction perpendicular to the fixed direction to support the fuel cell stack to the case, as required by claim 15; and a fuel cell stack comprising plural fuel cells stacked in a fixed direction, a fluid supply/discharge block, a case housing the fuel cell stack and the fluid supply/discharge block, and a bolt which penetrates the fluid supply/discharge block and the case in a direction perpendicular to the fixed direction to support the fuel cell stack to the case, as required by claim 18.

The bolt penetrating the end plate or the fluid supply/discharge block in a direction perpendicular to the fixed direction, according the present invention, provides improved support of the structure of the fuel cell stack against a horizontal load acting between the fuel cell stack

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and the case not provided by fuel cell assembly of Hatano et al.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the disclosure in a single reference of each element of a claimed invention. *Helifix Ltd. v. Blok-Lok Ltd.*, 208 F.3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000); *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 USPQ2d 1017 (Fed. Cir. 1994); *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 399, 36 USPQ2d 1101 (Fed. Cir. 1995); *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051 (Fed. Cir. 1987). Because Hatano et al. do not disclose a bolt which penetrates an end plate and the case in a direction perpendicular to the fixed direction to support the fuel cell stack to the case, as required by claim 15; and a bolt which penetrates the fluid supply/discharge block and the case in a direction perpendicular to the fixed direction to support the fuel cell stack to the case, as required by claim 18, Hatano et al. do not anticipate claims 15 and 18.

Applicant further submits that Hatano et al. do not suggest the claimed fuel cell assemblies.

Claim Rejections Under 35 U.S.C. § 103

Claims 3 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hatano et al. in view of Chen (U.S. Pat. No. 6,274,258). This rejection is traversed, and reconsideration and withdrawal thereof respectfully requested.

The combination of Hatano et al. and Chen does not suggest the claimed fuel cell assembly at least because Chen does not cure the deficiencies of Hatano et al. Chen does not suggest a bolt which penetrates an end plate and the case in a direction perpendicular to the fixed direction to support the fuel cell stack to the case, as required by claim 15; and a bolt which

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penetrates the fluid supply/discharge block and the case in a direction perpendicular to the fixed direction to support the fuel cell stack to the case, as required by claim 18.

The dependent claims are allowable for at least the same reasons as the independent claims from which they depend and further distinguish the claimed fuel cell assemblies.

In view of the above amendments and remarks, Applicant submits that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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